

EXHIBIT 18

Investigation Meeting

October 22, 2010

Superintendent's Conference Room

Present: Aaron Moran (High School Principal), Sandra Moore (Deputy Superintendent of Instructional Services), Johnson (Jay) McDowell (high school teacher), Debra Kelleher (Association Representation)

The purpose of today's meeting is to provide you with due process rights and to gather information for an investigation into several violations that allegedly occurred on Wednesday, Oct. 20, 2010 in your 6th hour Economics class. The result of the investigation could lead to disciplinary action, and I'm noting the offer for representation at today's meeting has been accepted.

You provided a statement about events that happened during sixth hour, and we have student statements, as well. Working from those statements, there are four alleged violations I will address with you today. I am directing you to answer each question truthfully.

Violation of teaching the HPS Curriculum

1. Were you teaching the published HPS Economics curriculum 6th hour on Oct. 20th?

Yes

2. If so, what standard were you teaching? (give handout of the Scope & Sequence)

Content Standard 7, Effects of Prices on the Market Place

3. How do you justify your decision to initiate a discussion on anti-bullying during your Economics class?

That discussion was started in response to a question: *What's Tyler's Army?*

4. Do you take responsibility for engaging in off-task-behavior by initiating and facilitating a social issue discussion (primarily a pro-homosexual agenda) that had nothing to do with your assigned curriculum?

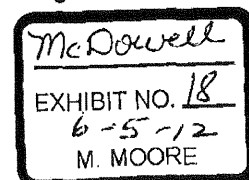
It was student initiated, and was well within the boundaries of Dr. McEvoy's professional development on behavior.

Violation of Board Policy: Snap Suspension and Controversial Issues

1. Board Policy 5610 EMERGENCY REMOVAL, SUSPENSION, AND EXPUSION OF NONDISABLED STUDENTS refers to Snap Suspension and the grounds for engaging in this process. That policy states a teacher may issue a snap suspension for reasons cited in our Code of Conduct. You referred two students for "inappropriate, indecent, disrespectful behavior", which is not listed in our Code of Conduct. How do you justify your referral?

Code of Conduct violation was 5517.01, refusal to accept harassment or bullying by staff.

2. Policy 5610 states: The Board also recognizes that it may be necessary for a teacher to remove a student from class for conduct which is disruptive to the learning environment.



How did a discussion, introduced by you, get so out of hand that a student had to be removed from class?

A student raised hand and started the discussion.

3. **Snap Suspensions require 1) teacher send student to principal, specifying the reason for the suspension as specified in the Student Code of Conduct 2) teacher schedules a parent-teacher conference regarding the suspension. Did you schedule a parent-teacher conference?**
- a. **If so, what were the results of that conference?**

I talked to Daniel's parent for 30 minutes and the resolution we came to was that he would return to the classroom the next day. The student was to have a conversation with Dr. Sharp in the morning and with me. I would have told him he can have whatever beliefs he wants, but he can't voice his beliefs in class if they make anyone else feel uncomfortable.

I spoke to (Jennifer) Goodwin (HS Assistant Principal) on the phone and told her I needed security up here. I don't recall conversing with her regarding discipline of the students, only that I wanted them out of my class. I did not conference/talk to Adam's parents because I thought it was just him being a putz. He's never said anything in class previously that's been combative. I saw his comments as him trying to get out of class.

4. **Board Policy 2240 CONTROVERSIAL ISSUES.** Please review points A-C, indicating the provisions of Board approval of controversial issues.
- a. **Point A: How was the controversial issue related to your instructional goals for Economics?**

It was related to Dr. McEvoy's anti-bullying in class training. It was a student initiated question and a student-initiated topic. I got emotional in class because it violated gay students' rights.

- b. **Point B: The controversial issue cannot tend to indoctrinate or persuade students to a particular point of view. After a student told you he did not accept gays, you got emotional, related his lack of validating the gay lifestyle to atrocities and then asked the student – now do you accept gays or not? It therefore appears you tried to indoctrinate this student to your belief. What is your response to this allegation?**

I was hoping he wouldn't voice his opinion again. The purpose was for him to learn he wouldn't answer that question that way. You can't say in class, my religion doesn't like Blacks, my religion doesn't accept gays (accept the gay lifestyle). (Are you saying not accepting gays is equated to hating gays?) I don't think the emotional level of 17 year olds knows the difference of nuances.

- c. **Point C: The controversial issue needs to encourage open-mindedness and is conducted in a spirit of scholarly inquiry. You got emotional with your students, taking them in the hall and yelling at them at one point. You then kicked two students out of class, disciplining them for expressing their First Amendment Rights. What is your response?**

I followed the two students into the hallway because they have a tendency to run. Daniel has a tendency to run, so I followed them into the hallway to be sure they didn't run. I stood in the doorway until administration arrived.

Violation of First Amendment Rights

- 1. You indicate in your written statement of the events of Oct. 20th that you do not allow confederate flags in your class. On what grounds did you make that expectation to your classes?**

Student Code of Conduct, page 11 – Students are prohibited from wearing distracting clothes which are disruptive to the educational setting. Examples . . .

Board Policy – 5511 – Dress Code – At end of policy it reads: Students who violate the foregoing rules will not be admitted to class and may be suspended from school

The Confederate flag is a symbol of hate – it is used as a symbol of the Facebook hate page *Rebel and Proud*. Also used as a symbol for the KKK. If I had an African American student who had been persecuted under Jim Crow, that student could be offended. The last cross burning in Howell was in 1988. The District (not me - Jay) doesn't believe a student has the right to wear whatever he/she wants.

- 2. Students have First Amendment Rights of Free Speech. A standard has been set by the 6th Circuit Court stating a school cannot discipline a student for free speech unless there is material and substantial disruption resulting from it. What specific material and substantial disruption did you witness resulting from the student wearing the belt buckle?**

There's a disruption to me. I consider it a racial symbol. The confederate flag's been removed from several state flags. And because it's controversial to ME means it shouldn't be accepted in my class. I see it as oppressive to our students of color. I believe the symbol falls under my syllabi.

- 3. What specific material and substantial disruption did you witness resulting from the students who said they do not accept gays (assumed to mean the gay lifestyle)?**

There was a big discussion in class. Some students were saying the student had the right to say that and others thought he didn't. I think the voicing of *I don't accept gays* seriously offended and hurt the emotional well being of some of my students.

I showed a Video following the removal of the students – Joel Burn – Fort Worth Texas City Council member - first 3 minutes in class – teen suicide from bullying. I showed it following our discussion in each class. Students initiated the same discussion in each of my 3 classes.

I was wearing a Tyler's Army t-shirt. (Do you see that as possibly offensive to anyone?) No, how could it be? It says *fight evil with kindness*. One of the teachers made them.

- 4. Do you believe you violated your students' First Amendment Rights of Free Speech? If not, why not?**

No, because I was within the Student Code of Conduct to remove the offensive clothing. No, because within the School Board Policy (Dr. McEvoy) and the Code of Conduct, I saw that as offensive speech, and teachers can stop offensive speech.

Violation of Student Confidentiality

1. **Did you speak publically on the phone in your classroom to an Assistant Principal, giving your suggestion for student discipline on students you'd just referred?**

Yes -- I said they weren't allowed back in my class (for that day.) I would assume the ones close to my desk probably did hear me. Typically an AP will ask - *What am I suppose to do with them?* (the students being kicked out) -- talk to them ? send them back? so I told her what discipline I wanted

2. **Do you believe any of your students heard that conversation?**

I was at my desk, you tell me. Daniel was in the hallway, so I don't know how he would have heard that.

3. **Do you see yourself as having violated student confidentiality by saying: *I don't want the students back in class?***

No, I don't think that's a violation of student confidentiality.

4. **You revealed a fellow student's name within the discipline explanation on one of your referrals. Do you see yourself as having violated student confidentiality by this behavior?**

In the context of that classroom incident, no.

Final Comments by Jay:

Jay: I saw no tolerance and outright bigotry.

Jay: Based on the Weingarten Rights, how does this relate to progressive discipline? Why am I out on Paid Leave? (Sandra shared seriousness of First Amendment Rights violation, need for Paid Leave and that we'd get back to him regarding the outcome of the due process hearing.)

Aaron: Do you have anything to learn from this?

Jay: The conversation could have been handled in a better manner. I could have ignored Daniel's statement and I wouldn't be sitting here.

Jay: If the District had taken a stance on the Confederate flag, it would have been clear. The Student Code of Conduct has is very wide -- so it wouldn't be me violating the student's First Amendment Rights, it would be the District violating the students' First Amendment Rights.

Sandra: Are you aware of any rulings, previously regarding the Confederate flag?

Jay: No